



BILLING CODE 4810-70-P

**DEPARTMENT OF THE TREASURY**

**Community Development Financial Institutions Fund**

**Funding Opportunity Title: Notice of Allocation Availability (NOAA) Inviting Applications for the Calendar Year (CY) 2019 Allocation Round of the New Markets Tax Credit (NMTC) Program**

*Announcement Type:* Announcement of NMTC Allocation availability.

**DATES:** Electronic applications must be received by 5:00 p.m. ET on October 28, 2019.

Applications sent by mail, facsimile, or other form will not be accepted. Please note the Community Development Financial Institutions Fund (CDFI Fund) will only accept applications and attachments (e.g., the Controlling Entity's representative signature page, investor letters, and organizational charts) in electronic form (see Section IV.C of this NOAA for more details).

Applications must meet all eligibility and other requirements and deadlines, as applicable, set forth in this NOAA. Any Applicant that is not yet certified as a Community Development Entity (CDE) must submit an application for CDE certification through the CDFI Fund's Awards Management Information System (AMIS) on or before 5:00 p.m. ET on September 23, 2019 (see Section III.A.1 of this NOAA for more details on CDE certification).

*Executive Summary:* This NOAA is issued in connection with the CY 2019 allocation round (Allocation Round) of the New Markets Tax Credit Program (NMTC Program), as authorized by Title I, subtitle C, section 121 of the Community Renewal Tax Relief Act of 2000 (P.L. 106-554) as amended. (26 U.S.C. 45D). Through the NMTC Program, the CDFI Fund provides authority to CDEs to offer an incentive to investors in the form of tax credits over seven years, which is expected to stimulate the provision of private investment capital that, in turn, will facilitate economic and community development in Low-Income Communities. Through this NOAA, the

CDFI Fund announces the availability of \$3.5 billion of NMTC Allocation authority in this Allocation Round.

In this NOAA, the CDFI Fund specifically addresses how a CDE may apply to receive an allocation of NMTCs, the competitive procedure through which NMTC Allocations will be made, and the actions that will be taken to ensure that proper allocations are made to appropriate entities.

## I. ALLOCATION AVAILABILITY DESCRIPTION

### A. Programmatic changes from the CY 2018 allocation round:

1. Prior QEI Issuance Requirements: Prior-year NMTC Allocatees will be subject to minimum thresholds for Qualified Equity Investment (QEI) issuance and closing of Qualified Low Income Community Investments (QLICs) with respect to their prior-year allocations. These thresholds and deadlines have been revised in comparison to the CY 2018 NOAA. See Section III.3 of this NOAA for additional details.

B. Program guidance and regulations: This NOAA describes application and Allocation requirements for this Allocation Round of the NMTC Program and should be read in conjunction with: (i) guidance published by the CDFI Fund on how an entity may apply to become certified as a CDE (66 Federal Register 65806, December 20, 2001); (ii) the final NMTC Regulations issued by the Internal Revenue Service (the IRS) (26 CFR 1.45D-1, published on December 28, 2004), as amended and related guidance, notices and other publications; and (iii) the application and related materials for this Allocation Round. All such materials may be found on the CDFI Fund's website at <https://www.cdfifund.gov>. The CDFI Fund requires Applicants to review these documents. Capitalized terms used, but not defined, in this NOAA have the respective meanings assigned to them in the NMTC Program Allocation Application, Internal Revenue

Code (IRC) § 45D or the IRS NMTC regulations. In the event of any inconsistency between this NOAA, the Allocation Application, and guidance issued by the CDFI Fund thereto, IRC § 45D or the IRS NMTC Regulations, the provisions of IRC § 45D and the IRS NMTC Regulations shall govern.

## II. ALLOCATION INFORMATION

A. Allocation amounts: Pursuant to the Protecting Americans from Tax Hikes (PATH) Act of 2015, the CDFI Fund expects that it may allocate to CDEs the authority to issue to their investors the aggregate amount of \$3.5 billion in equity as to which NMTCs may be claimed, as permitted under IRC § 45D(f)(1)(D). Pursuant to this NOAA, the CDFI Fund anticipates that it will issue up to \$100 million in tax credit investment authority per Allocatee. The CDFI Fund, in its sole discretion, reserves the right to allocate amounts in excess of or less than the anticipated maximum allocation amount should the CDFI Fund deem it appropriate. The CDFI Fund reserves the right to allocate NMTC authority to any, all, or none of the entities that submit applications in response to this NOAA, and in any amounts it deems appropriate.

B. Type of award: NMTC Program awards are made in the form of allocations of tax credit investment authority.

C. Allocation Agreement: Each Allocatee must sign an Allocation Agreement, which must be countersigned by the CDFI Fund, before the NMTC Allocation is effective. The Allocation Agreement contains the terms and conditions of the NMTC Allocation. For further information, see Section VI of this NOAA.

## III. ELIGIBILITY

A. Eligible Applicants: IRC § 45D specifies certain eligibility requirements that each Applicant must meet to be eligible to apply for an allocation of NMTCs. The following sets forth additional

detail and certain additional dates that relate to the submission of applications under this NOAA for the available NMTC Allocation authority.

The CDFI Fund will consider an Affiliate to be any entity that meets the definition of Affiliate as defined in the NMTC Allocation Application materials, or any entity otherwise identified as an Affiliate by the Applicant in its NMTC Allocation Application materials.

1. CDE certification: For purposes of this NOAA, the CDFI Fund will not consider an application for an allocation of NMTCs unless: (a) the Applicant is certified as a CDE at the time the CDFI Fund receives its NMTC Program Allocation Application; or (b) the Applicant submits an application for certification as a CDE through the AMIS on or before 5:00 p.m. ET on September 23, 2019. Applicants for CDE certification may obtain information regarding CDE certification and the CDE certification application process in AMIS on the CDFI Fund's website at <https://www.cdfifund.gov/programs-training/certification/cde/Pages/default.aspx>.

Applications for CDE certification must be submitted in AMIS. Paper versions of the CDE certification application will not be accepted.

The CDFI Fund will not provide NMTC allocation authority to Applicants that are not certified as CDEs or to entities that are certified as Subsidiary CDEs.

If an Applicant that has already been certified as a CDE wishes to change its designated CDE Service Area for this allocation round, it must submit its request for such change to the CDFI Fund, and the request must be received by the CDFI Fund by 5:00 pm. ET September 23, 2019. A request to change a CDE's Service Area must be submitted through the AMIS as a Service Request. Such requests will need to include, at a minimum, the applicable CDE control number, the revised service area designation, and updated accountability information that

demonstrates that the CDE has the required representation from Low-Income Communities in the revised Service Area.

2. As a condition of eligibility for this Allocation Round, the Applicant will not be permitted to use the proceeds of Qualified Equity Investments (QEIs) to make Qualified Low-Income Community Investments (QLICIs) in Qualified Active Low-Income Community Businesses (QALICBs) where QLICI proceeds are used, in whole or in part, to repay or refinance a debt or equity provider whose capital was used to fund the QEI, or are used to repay or refinance any Affiliate of such a debt or equity provider, except where: (i) the QLICI proceeds are used to repay or refinance documented reasonable expenditures that are directly attributable to the qualified business of the QALICB, and such reasonable expenditures were incurred no more than 24 months prior to the QLICI closing date; or (ii) no more than five percent of the total QLICI proceeds from the QEI are used to repay or refinance documented reasonable expenditures that are directly attributable to the qualified business of the QALICB. Refinance includes transferring cash or property, directly or indirectly, to the debt or equity provider or an Affiliate of the debt or equity provider.

3. Prior award recipients or Allocatees: Applicants must be aware that success in a prior application or allocation round of any of the CDFI Fund's programs is not indicative of success under this NOAA. Prior award recipients of any CDFI Fund program are eligible to apply under this NOAA, except as follows:

a. Prior Allocatees and Qualified Equity Investment (QEI) issuance and Qualified Low Income Community Investment (QLICI) requirements: The following describes the QEI issuance and QLICI requirements applicable to prior Allocatees.

An Allocatee in the CY 2013 allocation round of the NMTC Program is not eligible to receive an NMTC Allocation pursuant to this NOAA unless the Allocatee is able to affirmatively demonstrate that, as of 11:59 p.m. ET on January 31, 2020, it has finalized 100 percent of its QEIs under that allocation and used at least the percentage of those QEIs designated Schedule 1, section 3.2(j) of its CY 2013 NMTC Allocation Agreement to make QLICIs.

An Allocatee in the CY 2014 allocation round of the NMTC Program is not eligible to receive a NMTC allocation pursuant to this NOAA unless the Allocatee is able to affirmatively demonstrate that, as of 11:59 p.m. ET on January 31, 2020, it has finalized 90 percent of its QEIs under that allocation and used at least the percentage of those QEIs designated in Schedule 1, section 3.2(j) of its CY 2014 round NMTC Allocation Agreement to make QLICIs.

An Allocatee in the CY 2015-16 combined allocation round of the NMTC Program is not eligible to receive a NMTC Allocation pursuant to this NOAA unless the Allocatee is able to affirmatively demonstrate that, as of 11:59 p.m. ET on January 31, 2020, it has finalized at least 80 percent of its QEIs under that allocation and used at least the percentage of those QEIs designated in Schedule 1, section 3.2(j) of its CY 2015-16 round NMTC Allocation Agreement to make QLICIs.

An Allocatee (with the exception of a Rural CDE Allocatee) in the CY 2017 allocation round of the NMTC Program is not eligible to receive a NMTC Allocation pursuant to this NOAA unless the Allocatee is able to affirmatively demonstrate that, as of 11:59 p.m. ET on January 31, 2020, it has finalized at least 50 percent of its QEIs under that allocation and used at least the percentage of those QEIs designated in Schedule 1, section 3.2(j) of its CY 2017 round NMTC Allocation Agreement to make QLICIs.

A prior Rural CDE Allocatee (as indicated in its CY 2017 Allocation Agreement) awarded in the CY 2017 allocation round is not eligible to receive a NMTC Allocation pursuant to this NOAA unless the Allocatee can demonstrate that, as of 11:59 p.m. ET on January 31, 2020, it has finalized at least 30 percent of its QEIs under that allocation and used at least the percentage of those QEIs designated in Schedule 1, section 3.2(j) of its CY 2017 round NMTC Allocation Agreement to make QLICIs.

An Allocatee (with the exception of a Rural CDE Allocatee) in the CY 2018 allocation round of the NMTC Program is not eligible to receive a NMTC Allocation pursuant to this NOAA unless the Allocatee is able to affirmatively demonstrate that, as of 11:59 p.m. ET on January 31, 2020, it has finalized at least 30 percent of its QEIs under that allocation and used at least the percentage of those QEIs designated in Schedule 1, section 3.2(j) of its CY 2018 round NMTC Allocation Agreement to make QLICIs. A Rural CDE Allocatee (as indicated in its CY2018 Allocation Agreement) awarded in the CY 2018 Round is not required to meet the above QEI issuance or QLICI thresholds with regard to its CY 2018 NMTC Allocation award.

In addition to the requirements described above, a CDE is not eligible to receive a NMTC Allocation pursuant to this NOAA if an Affiliate of the Applicant is a prior Allocatee and has not met the minimum QEIs issuance and QLICI thresholds as set forth above for Allocatees in the prior allocation rounds of the NMTC Program.

For purposes of this section of the NOAA, the CDFI Fund will only recognize as “finalized” those QEIs that have been properly reported in AMIS Allocation Tracking System for Qualified Equity Investments (AQEIs) by the deadlines specified above. Allocatees and their Subsidiary Allocatees, if any, are advised to access AMIS to record each QEI that they issue to an investor in exchange for cash. Instructions on recording a QEI in AMIS is available at

<https://amis.cdfifund.gov/s/Training>. Applicants may be required, upon notification from the CDFI Fund, to submit adequate documentation to substantiate the required QEI issuance and QLICI closings. To the extent necessary, the CDFI Fund will request additional QLICI data from Applicants during the application review process in order to determine whether the above thresholds for closed QLICIs have been met by the deadlines specified.

Any prior Allocatee that requires any action by the CDFI Fund (i.e., certifying a subsidiary entity as a CDE; adding a subsidiary CDE to an Allocation Agreement; etc.) in order to meet the QEI issuance requirements above must submit a Certification application for subsidiary CDEs by 5:00 p.m. ET on October 7, 2019 and Allocation Agreement amendment requests by no later than 5:00 pm ET on December 30, 2019 in order to guarantee that the CDFI Fund completes all necessary approvals prior to 5:00 p.m. ET on January 31, 2020. Applicants for CDE certification, including for Subsidiary CDE certification, may obtain information regarding CDE certification and the CDE certification application process in AMIS on the CDFI Fund's website at <https://www.cdfifund.gov>. Applications for CDE certification must be submitted in AMIS. Paper versions of the CDE certification application will not be accepted.

b. Pending determination of noncompliance or default: If an Applicant is a prior award recipient or Allocatee under any CDFI Fund program and if: (i) it has submitted reports to the CDFI Fund that demonstrate potential noncompliance with a previous assistance or award agreement or default under a previous Allocation Agreement; and (ii) the CDFI Fund has yet to make a final determination as to whether the entity is in noncompliance with its previous assistance or award agreement or in default of its previous Allocation Agreement, the CDFI Fund will consider the Applicant's application under this NOAA pending final determination of whether the entity is in noncompliance or default, in the sole determination of the CDFI Fund. Further, if an Affiliate of



the Applicant is a prior CDFI Fund award recipient or Allocatee and if such entity: (i) has submitted reports to the CDFI Fund that demonstrate potential noncompliance with a previous assistance or award agreement or default under a previous Allocation Agreement; and (ii) the CDFI Fund has yet to make a final determination as to whether the entity is in noncompliance with its previous assistance or award agreement, or in default of its previous Allocation Agreement, the CDFI Fund will consider the Applicant's application under this NOAA pending final determination of whether the entity is in noncompliance or default, in the sole determination of the CDFI Fund.

c. Noncompliance or default status: The CDFI Fund will not consider an application submitted by an Applicant that is a prior CDFI Fund award recipient or Allocatee under any CDFI Fund program if, as of the application deadline of this NOAA: (i) the CDFI Fund has made a final determination that such Applicant is noncompliant with a previously executed assistance or award agreement, or in default of a previously executed Allocation Agreement; and (ii) the CDFI Fund has provided written notification of such final determination to the Applicant; and (iii) the default occurs during the time period beginning 12 months prior to the application deadline and ending with the execution of the CY 2019 Allocation Agreement. Further, the CDFI Fund will not consider an application submitted by an Applicant with an Affiliate that is a prior award recipient or Allocatee under any CDFI Fund Program if, as of the application deadline of this NOAA: (i) the CDFI Fund has made a final determination that such Affiliate is noncompliant with a previously executed assistance or award agreement, or in default of a previously executed Allocation Agreement; (ii) the CDFI Fund has provided written notification of such final determination to the Affiliate; and (iii) the default occurs during the time period beginning 12 months prior to the application deadline and ending with the execution of the CY 2019

Allocation Agreement;

d. Contact the CDFI Fund: Accordingly, Applicants that are prior award recipients and/or Allocatees under any other CDFI Fund program are advised to comply with the requirements specified in assistance, allocation and/or award agreement(s). All outstanding reports and compliance questions should be directed to the Office of Certification, Compliance Monitoring, and Evaluation through a Service Request initiated in AMIS. Requests submitted less than thirty calendar days prior to the application deadline may not receive a response before the application deadline.

The CDFI Fund will respond to Applicants' reporting, compliance or disbursement questions Mondays through Fridays, between the hours of 9:00 a.m. and 5:00 p.m. ET, starting the date of publication of this NOAA through October 24, 2019 (two business days before the application deadline). The CDFI Fund will not respond to Applicants' reporting, compliance, CDE certification, or disbursement phone calls or e-mail inquiries that are received after 5:00 p.m. ET on October 24, 2019, until after the funding application deadline of October 28, 2019.

4. Failure to accurately respond to a question in the Assurances and Certifications section of the application, submit the required written explanation, or provide any updates: In its sole discretion, the CDFI Fund may deem the Applicant's application ineligible, if the CDFI Fund determines that the Applicant inaccurately responded to a question and failed to submit a required written explanation, accurately responded a question yet failed to submit a required written explanation, or failed to notify the CDFI Fund of any changes to the information submitted between the date of application and the date the Allocatee executes the Allocation Agreement, with respect to the Assurances and Certifications. In making this determination, the CDFI Fund will take into consideration, among other factors, the materiality of the question, the

substance of any supplemental responses provided, and whether the information in the Applicant's supplemental responses would have a material adverse effect on the Applicant, its financial condition or its ability to perform under an Allocation Agreement, should the Applicant receive an allocation.

5. Entities that propose to transfer NMTCs to Subsidiary CDEs: Both for-profit and non-profit CDEs may apply for NMTC Allocation authority, but only a for-profit CDE is permitted to provide NMTCs to its investors. A non-profit Applicant wishing to apply for a NMTC Allocation must demonstrate, prior to entering into an Allocation Agreement with the CDFI Fund, that: (i) it controls one or more Subsidiary CDEs that are for-profit entities; and (ii) it intends to transfer the full amount of any NMTC Allocation it receives to said Subsidiary CDEs.

An Applicant wishing to transfer all or a portion of its NMTC Allocation to a Subsidiary CDE is not required to create the Subsidiary prior to submitting a NMTC Allocation Application to the CDFI Fund. However, the Subsidiary entities must be certified as CDEs by the CDFI Fund, and enjoined as parties to the Allocation Agreement at closing or by amendment to the Allocation Agreement after closing.

The CDFI Fund requires a non-profit Applicant to submit a CDE Certification application to the CDFI Fund on behalf of at least one for-profit Subsidiary within 60 days after the non-profit Applicant receives notification from the CDFI Fund of its allocation award, as such Subsidiary must be certified as a CDE prior to entering into an Allocation Agreement with the CDFI Fund. The CDFI Fund reserves the right to rescind the award if a non-profit Applicant that does not already have a certified for-profit Subsidiary CDE fails to submit a certification application for one or more for-profit Subsidiaries within 60 days of the date it receives notification from the CDFI Fund of its allocation award.

6. Entities that submit applications together with Affiliates; applications from common enterprises:

- a. As part of the Allocation Application review process, the CDFI Fund will evaluate whether Applicants are Affiliates, as such term is defined in the Allocation Application. If an Applicant and its Affiliate(s) wish to submit Allocation Applications, they must do so collectively, in one application; an Applicant and its Affiliate(s) may not submit separate Allocation Applications. If Affiliated entities submit multiple applications, the CDFI Fund will reject all such applications received, except for those State-owned or State-controlled governmental Affiliated entities. In the case of State-owned or State-controlled governmental entities, the CDFI Fund may accept applications submitted by different government bodies within the same State, but only to the extent the CDFI Fund determines that the business strategies and/or activities described in such applications, submitted by separate entities, are distinctly dissimilar and/or are operated and/or managed by distinctly dissimilar personnel, including staff, board members and identified consultants. In such cases, the CDFI Fund reserves the right to limit award amounts to such entities to ensure that the entities do not collectively receive more than the \$100 million cap. If the CDFI Fund determines that the applications submitted by different government bodies in the same State are not distinctly dissimilar and/or operated and/or managed by distinctly dissimilar personnel, it will reject all such applications.
- b. For purposes of this NOAA, the CDFI Fund will also evaluate whether each Applicant is operated or managed as a “common enterprise” with another Applicant in this Allocation Round using the following indicia, among others: (i) whether different Applicants have the same individual(s), including the Authorized Representative, staff, board members and/or consultants, involved in day-to-day management, operations and/or investment responsibilities; (ii) whether

the Applicants have business strategies and/or proposed activities that are so similar or so closely related that, in fact or effect, they may be viewed as a single entity; and/or (iii) whether the applications submitted by separate Applicants contain significant narrative, textual or other similarities such that they may, in fact or effect, be viewed as substantially identical applications. In such cases, the CDFI Fund will reject all applications received from such entities.

c. Furthermore, an Applicant that receives an allocation in this Allocation Round (or its Subsidiary Allocatee) may not become an Affiliate of or member of a common enterprise (as defined above) with another Applicant that receives an allocation in this Allocation Round (or its Subsidiary Allocatee) at any time after the submission of an Allocation Application under this NOAA. This prohibition, however, generally does not apply to entities that are commonly Controlled solely because of common ownership by QEI investors. This requirement will also be a term and condition of the Allocation Agreement (see Section VI.B of this NOAA and additional application guidance materials on the CDFI Fund's website at <https://www.cdfifund.gov> for more details).

7. Entities created as a series of funds: An Applicant whose business structure consists of an entity with a series of funds must apply for CDE certification for each fund. If such an Applicant represents that it is properly classified for Federal tax purposes as a single partnership or corporation, it may apply for CDE certification as a single entity. If an Applicant represents that it is properly classified for Federal tax purposes as multiple partnerships or corporations, then it must submit a CDE Certification application for the Applicant and each fund it would like to participate in the NMTC Program, and each fund must be separately certified as a CDE. Applicants should note, however, that receipt of CDE certification as a single entity or as multiple entities is not a determination that an Applicant and its related funds are properly

classified as a single entity or as multiple entities for Federal tax purposes. Regardless of whether the series of funds is classified as a single partnership or corporation or as multiple partnerships or corporations, an Applicant may not transfer any NMTC Allocations it receives to one or more of its funds unless the fund is a certified CDE that is a Subsidiary of the Applicant, enjoined to the Allocation Agreement as a Subsidiary Allocatee.

8. Entities that are Bank Enterprise Award Program (BEA Program) award recipients: An insured depository institution investor (and its Affiliates and Subsidiaries) may not receive a NMTC Allocation in addition to a BEA Program award for the same investment in a CDE. Likewise, an insured depository institution investor (and its Affiliates and Subsidiaries) may not receive a BEA Program award in addition to a NMTC Allocation for the same investment in a CDE.

#### IV. APPLICATION AND SUBMISSION INFORMATION

A. Address to request application package: Applicants must submit applications electronically under this NOAA, through the CDFI Fund's Awards Management Information System (AMIS). Following the publication of this NOAA, the CDFI Fund will make the electronic Allocation Application available on its website at <https://www.cdfifund.gov>.

B. Application content requirements: Detailed application content requirements are found in the application related to this NOAA. Applicants must submit all materials described in and required by the application by the applicable deadlines. Applicants will not be afforded an opportunity to provide any missing materials or documentation, except, if necessary and at the request of the CDFI Fund. Electronic applications must be submitted solely by using the format made available via AMIS. Additional information, including instructions relating to the submission of supporting information (e.g., the Controlling Entity's representative signature page, Assurances

and Certifications supporting documents, investor letters, organizational charts), is set forth in further detail in the CY 2019 NMTC Application – AMIS Navigation Guide for this Allocation Round. An application must include a valid and current Employer Identification Number (EIN) issued by the Internal Revenue Service (IRS) and assigned to the Applicant and, if applicable, its Controlling Entity. Electronic applications without a valid EIN are incomplete and cannot be transmitted to the CDFI Fund. For more information on obtaining an EIN, please contact the IRS at (800) 829-4933 or [www.irs.gov](http://www.irs.gov). Do not include any personal Social Security Numbers as part of the application.

An Applicant may not submit more than one application in response to this NOAA. In addition, as stated in Section III.A.6 of this NOAA, an Applicant and its Affiliates must collectively submit only one Allocation Application; an Applicant and its Affiliates may not submit separate Allocation Applications except as outlined in Section III.A.6 above. Once an application is submitted, an Applicant will not be allowed to change any element of its application.

C. Form of application submission: Applicants may only submit applications under this NOAA electronically via AMIS, the CDFI Fund’s Award Management Information System.

Applications and required attachments sent by mail, facsimile, or e-mail will not be accepted. Submission of an electronic application will facilitate the processing and review of applications and the selection of Allocatees; further, it will assist the CDFI Fund in the implementation of electronic reporting requirements.

Electronic applications must be submitted solely by using the CDFI Fund’s website and must be sent in accordance with the submission instructions provided in the CY 2019 NMTC Application – AMIS Navigation Guide for this Allocation Rounds. AMIS will only permit the submission of

applications in which all required questions and tables are fully completed. Additional information, including instructions relating to the submission of supporting information (e.g., the Controlling Entity's representative signature page, Assurances and Certifications supporting documents, investor letters, and organizational charts) is set forth in further detail in the CY 2019 NMTC Application – AMIS Navigation Guide for this Allocation Round.

D. Application submission dates and times:

1. Application deadlines:

a. Electronic applications must be received by 5:00 p.m. ET on October 28, 2019. Electronic applications cannot be transmitted or received after 5:00 p.m. ET on October 28, 2019. In addition, Applicants must electronically submit supporting information (e.g., the Controlling Entity's representative signature page, investor letters, and organizational charts). The Controlling Entity's representative signature page, Assurances and Certifications supporting documents, investor letters, and organizational charts must be submitted on or before 5:00 p.m. ET on October 28, 2019. For details, see the instructions provided in the CY 2019 NMTC Application – AMIS Navigation Guide for this Allocation Round on the CDFI Fund's website. Applications and other required documents received after this date and time will be rejected. Please note that the document submission deadlines in this NOAA and/or the Allocation Application are strictly enforced.

E. Intergovernmental Review: Not applicable.

F. Funding Restrictions: For allowable uses of investment proceeds related to a NMTC Allocation, please see 26 U.S.C. 45D and the final regulations issued by the Internal Revenue Service (26 CFR 1.45D-1, published December 28, 2004 and as amended) and related guidance. Please see Section I, above, for the Programmatic Changes of this NOAA.



G. Paperwork Reduction: Under the Paperwork Reduction Act (44 U.S.C. chapter 35), an agency may not conduct or sponsor a collection of information, and an individual is not required to respond to a collection of information, unless it displays a valid OMB control number. Pursuant to the Paperwork Reduction Act, the application has been assigned the following control number: 1559-0016.

## V. APPLICATION REVIEW INFORMATION

A. Review and selection process: All Allocation Applications will be reviewed for eligibility and completeness. To be complete, the application must contain, at a minimum, all information described as required in the application form. An incomplete application will be rejected. Once the application has been determined to be eligible and complete, the CDFI Fund will conduct the substantive review of each application in two parts (Phase 1 and Phase 2) in accordance with the criteria and procedures generally described in this NOAA and the Allocation Application.

In Phase 1, two reviewers will evaluate and score the Business Strategy and Community Outcomes sections of each application. An Applicant must exceed a minimum overall aggregate base score threshold and exceed a minimum aggregate section score threshold in each scored section in order to advance from the Phase 1 to the Phase 2 part of the substantive review process. In Phase 2, the CDFI Fund will rank Applicants and determine the dollar amount of allocation authority awarded in accordance with the procedures set forth below.

### B. Criteria:

#### 1. Business Strategy (25-point maximum):

a. When assessing an Applicant's business strategy, reviewers will consider, among other things: the Applicant's products, services and investment criteria; a pipeline of potential business loans or investments consistent with an Applicant's request for an NMTC Allocation; the prior

performance of the Applicant or its Controlling Entity, particularly as it relates to making similar kinds of investments as those it proposes to make with the proceeds of QEIs; the Applicant's prior performance in providing capital or technical assistance to disadvantaged businesses or communities; the extent to which the Applicant intends to make QLICs in one or more businesses in which persons unrelated to the entity hold a majority equity interest; and the extent to which Applicants that otherwise have notable relationships with the Qualified Active Low Income Community Businesses (QALICBs) financed will create benefits (beyond those created in the normal course of a NMTC transaction) to Low-Income Communities.

Under the Business Strategy criterion, an Applicant will generally score well to the extent that it will deploy debt or investment capital in products or services which are flexible or non-traditional in form and on better terms than available in the marketplace. An Applicant will also score well to the extent that, among other things: (i) it has identified a set of clearly-defined potential borrowers or investees; (ii) it has a track record of successfully deploying loans or equity investments and providing services similar to those it intends to provide with the proceeds of QEIs; (iii) its projected dollar volume of NMTC deployment is supported by its track record of deployment; (iv) in the case of an Applicant proposing to purchase loans from CDEs, the Applicant will require the CDE selling such loans to re-invest the proceeds of the loan sale to provide additional products and services to Low-Income Communities. If the Applicant (or its Affiliates) have notable relationships with QALICBs, the Applicant will generally score well if it quantifies how such relationships will create benefits (i.e. cost savings, lower fees) for QALICBs, unaffiliated end-users such as tenant businesses, or residents of Low-Income Communities.

b. Priority Points: In addition, as provided by IRC § 45D(f)(2), the CDFI Fund will ascribe additional points to entities that meet one or both of the statutory priorities. First, the CDFI Fund will give up to five (5) additional points to any Applicant that has a record of having successfully provided capital or technical assistance to disadvantaged businesses or communities. Second, the CDFI Fund will give five (5) additional points to any Applicant that intends to satisfy the requirement of IRC § 45D(b)(1)(B) by making QLICs in one or more businesses in which persons unrelated (within the meaning of IRC § 267(b) or IRC § 707(b)(1)) to an Applicant (and the Applicant's subsidiary CDEs, if the Subsidiary Allocatee makes the QLICI) hold the majority equity interest. Applicants may earn points for one or both statutory priorities. Thus, Applicants that meet the requirements of both priority categories can receive up to a total of ten (10) additional points. A record of having successfully provided capital or technical assistance to disadvantaged businesses or communities may be demonstrated either by the past actions of an Applicant itself or by its Controlling Entity (e.g., where a new CDE is established by a nonprofit corporation with a history of providing assistance to disadvantaged communities). An Applicant that receives additional points for intending to make investments in unrelated businesses and is awarded a NMTC Allocation must meet the requirements of IRC § 45D(b)(1)(B) by investing substantially all of the proceeds from its QEIs in unrelated businesses. The CDFI Fund will include an Applicant's priority points when ranking Applicants during Phase 2 of the review process, as described below.

2. Community Outcomes (25-point maximum): In assessing the potential benefits to Low-Income Communities that may result from the Applicant's proposed investments, reviewers will consider, among other things, the degree to which the Applicant is likely to: (i) achieve significant and measurable community development outcomes in its Low-Income Communities;

(ii) invest in particularly economically distressed markets; (iii) engage with local communities regarding investments; (iv) the level of involvement of community representatives in the Governing Board and/or Advisory Board in approving investment criteria or decisions; and (v) demonstrate a track record of investing in businesses that spur additional private capital investment in Low-Income Communities.

An Applicant will generally score well under this section to the extent that, among other things: (a) it will generate clear and well supported community development outcomes; (b) it has a track record of producing quantitative and qualitative community outcomes that are similar to those projected to be achieved with an NMTC Allocation; (c) it is working in particularly economically distressed or otherwise underserved communities; (d) its activities are part of a broader community or economic development strategy; (e) it demonstrates a track record of community engagement around past investment decisions; (f) it ensures that an NMTC investment into a project or business is supported by and will be beneficial to Low-Income Persons and residents of Low-Income Communities (LICs); and (g) it is likely to engage in activities that will spur additional private capital investment.

#### C. Phase 2 Evaluation.

1. Application Ranking and Anomaly Reviews: Using the numeric scores from Phase 1, Applicants are ranked on the basis of each Applicant's combined scores in the Business Strategy and Community Outcomes sections of the application plus one half of the priority points. If, in the case of a particular application, a reviewer's total base score or section score(s) (in one or more of the two application scored sections) varies significantly from the other reviewer's total base scores or section scores for such application, the CDFI Fund may, in its sole discretion, obtain the evaluation and numeric scoring of an additional third reviewer to determine whether

the anomalous score should be replaced with the score of the additional third reviewer.

2. Late Reports: In the case of an Applicant or any Affiliates that has previously received an award or Allocation from the CDFI Fund through any CDFI Fund program, the CDFI Fund will deduct points from the Applicant's "Final Rank Score" for the Applicant's (or its Affiliate's) failure to meet any of the reporting deadlines set forth in any assistance, award or Allocation Agreement(s), if the reporting deadlines occurred during the period from June 28, 2018 to the application deadline in this NOAA (October 28, 2019).

3. Prior Year Allocatees: In the case of Applicants (or their Affiliates) that are prior year Allocatees, the CDFI Fund will review the activities of the prior year Allocatee to determine whether the entity has: (a) effectively utilized its prior-year Allocations in a manner generally consistent with the representations made in the relevant Allocation Application (including, but not limited to, the proposed product offerings, QALICB type, fees and markets served); (b) issued QEIs and closed QLICs in a timely manner; and (c) substantiated a need for additional allocation authority. The CDFI Fund will use this information in determining whether to reject or reduce the allocation award amount of its NMTC Allocation Application.

The CDFI Fund will award allocations in the order of the "Final Rank Score," subject to Applicants meeting all other eligibility requirements; provided, however, that the CDFI Fund, in its sole discretion, reserves the right to reject an application and/or adjust award amounts as appropriate based on information obtained during the review process.

4. Management Capacity: In assessing an Applicant's management capacity, CDFI Fund will consider, among other things, the current and planned roles, as well as qualifications of the Applicant's (and Controlling Entity's, if applicable): Principals, board members, management team, and other essential staff or contractors, with specific focus on: experience in providing

loans, equity investments or financial counseling and other services, including activities similar to those described in the Applicant's business strategy; asset management and risk management experience; experience with fulfilling compliance requirements of other governmental programs, including other tax credit programs; and the Applicant's (or its Controlling Entity's) financial health. CDFI Fund evaluators will also consider the extent to which an Applicant has protocols in place to ensure ongoing compliance with NMTC Program requirements and the Applicant's projected income and expenses related to managing an NMTC Allocation.

An Applicant will be generally evaluated more favorably under this section to the extent that its management team or other essential personnel have experience in: (a) providing loans, equity investments or financial counseling and other services in Low-Income Communities, particularly those likely to be served by the Applicant with the proceeds of QEIs; (b) asset and risk management; and (c) fulfilling government compliance requirements, particularly tax credit program compliance. An Applicant will also be evaluated favorably to the extent it demonstrates strong financial health and a high likelihood of remaining a going-concern; it clearly explains levels of income and expenses; has policies and systems in place to ensure portfolio quality, ongoing compliance with NMTC Program requirements; and, if it is a Federally-insured financial institution, has its most recent Community Reinvestment Act (CRA) rating as "outstanding."

5. Capitalization Strategy: When assessing an Applicant's capitalization strategy, CDFI Fund will consider, among other things: the key personnel of the Applicant (or Controlling Entity) and their track record of raising capital, particularly from for-profit investors; the extent to which the Applicant has secured investments or commitments to invest in NMTC (if applicable), or indications of investor interest commensurate with its requested amount of tax credit Allocations,

or, if a prior Allocatee, the track record of the Applicant or its Affiliates in raising Qualified Equity Investments in the past five years; the Applicant's strategy for identifying additional investors, if necessary, including the Applicant's (or its Controlling Entity's) prior performance with raising equity from investors, particularly for-profit investors; the distribution of the economic benefits of the tax credit; and the extent to which the Applicant intends to invest the proceeds from the aggregate amount of its QEIs at a level that exceeds the requirements of IRC § 45D(b)(1)(B) and the IRS regulations.

An Applicant will be evaluated more favorably under this section to the extent that: (a) it or its Controlling Entity demonstrate a track record of raising investment capital; (b) it has secured investor commitments, or has a reasonable strategy for obtaining such commitments, or, if it or its Affiliates is a prior Allocatee with a track record in the past five years of raising Qualified Equity Investments and; (c) it generally demonstrates that the economic benefits of the tax credit will be passed through to a QALICB; and (d) it intends to invest the proceeds from the aggregate amount of its QEIs at a level that exceeds the requirements of IRC § 45D(b)(1)(B) and the IRS regulations. In the case of an Applicant proposing to raise investor funds from organizations that also will identify or originate transactions for the Applicant or from Affiliated entities, said Applicant will be evaluated more favorably to the extent that it will offer products with more favorable rates or terms than those currently offered by its investor(s) or Affiliated entities and/or will target its activities to areas of greater economic distress than those currently targeted by the investor or Affiliated entities.

D. Allocations serving Non-Metropolitan counties: As provided for under Section 102(b) of the Tax Relief and Health Care Act of 2006 (P. L. 109-432), the CDFI Fund shall ensure that Non-Metropolitan counties receive a proportional allocation of QEIs under the NMTC Program. The

CDFI Fund will endeavor to ensure that 20 percent of the QLICIs to be made using QEI proceeds are invested in Non-Metropolitan counties. In addition, the CDFI Fund will ensure that the proportion of Allocatees that are Rural CDEs is, at a minimum, equal to the proportion of Applicants in the highly qualified pool that are Rural CDEs. A Rural CDE is one that has a track record of at least three years of direct financing experience, has dedicated at least 50 percent of its direct financing dollars to Non-Metropolitan counties over the past five years, and has committed that at least 50 percent of its NMTC financing dollars with this Allocation will be deployed in such areas. Non-Metropolitan counties are counties not contained within a Metropolitan Statistical Area, as such term is defined in OMB Bulletin No. 10-02 (Update of Statistical Area Definitions and Guidance on Their Uses) and applied using 2010 census tracts.

Applicants that meet the minimum scoring thresholds will be advanced to Phase 2 review and will be provided with “preliminary” awards, in descending order of Final Rank Score, until the available allocation authority is fulfilled. Once these “preliminary” award amounts are determined, the CDFI Fund will then analyze the Allocatee pool to determine whether the two Non-Metropolitan proportionality objectives have been met.

The CDFI Fund will first examine the “preliminary” awards and Allocatees to determine whether the percentage of Allocatees that are Rural CDEs is, at a minimum, equal to the percentage of Applicants in the highly qualified pool that are Rural CDEs. If this objective is not achieved, the CDFI Fund will provide awards to additional Rural CDEs from the highly qualified pool, in descending order of their Final Rank Score, until the appropriate percentage balance is achieved. In order to accommodate the additional Rural CDEs in the Allocatee pool within the available Allocation limitations, a formula reduction may be applied as uniformly as possible to



the allocation amount for all Allocatees in the pool that have not committed to investing a minimum of 20 percent of their QLICIs in Non-Metropolitan counties.

The CDFI Fund will then determine whether the pool of Allocatees will, in the aggregate, invest at least 20 percent of their QLICIs (as measured by dollar amount) in Non-Metropolitan counties. The CDFI Fund will first apply the “minimum” percentage of QLICIs that Allocatees indicated in their applications would be targeted to Non-Metropolitan areas to the total Allocation award amount of each Allocatee (less whatever percentage the Allocatee indicated would be retained for non-QLICI activities), and total these figures for all Allocatees. If this aggregate total is greater than or equal to 20 percent of the QLICIs to be made by the Allocatees, then the pool is considered balanced and the CDFI Fund will proceed with the Allocation process. However, if the aggregate total is less than 20 percent of the QLICIs to be made by the Allocatees, the CDFI Fund will consider requiring any or all of the Allocatees to direct up to the “maximum” percentage of QLICIs that the Allocatees indicated would be targeted to Non-Metropolitan counties, taking into consideration their track record and ability to deploy dollars in Non-Metropolitan counties. If the CDFI Fund cannot meet the goal of 20 percent of QLICIs in Non-Metropolitan counties by requiring any or all Allocatees to commit up to the maximum percentage of QLICIs that they indicated would be targeted to Non-Metropolitan counties, the CDFI Fund may add additional highly qualified Rural CDEs (in descending order of final rank score) to the Allocatee pool. In order to accommodate any additional Allocatees within the allocation limitations, a formula reduction will be applied as uniformly as possible, to the allocation amount for all Allocatees in the pool that have not committed to investing a minimum of 20 percent of their QLICIs in Non-Metropolitan counties.

E. Questions: All outstanding reports or compliance questions should be directed to the Office of Certification, Compliance Monitoring, and Evaluation through the submission of a Service Request in AMIS or by telephone at (202) 653-0423. The CDFI Fund will respond to reporting or compliance questions Mondays through Fridays, between the hours of 9:00 a.m. and 5:00 p.m. ET, starting the date of the publication of this NOAA through October 24, 2019. The CDFI Fund will not respond to reporting or compliance phone calls or e-mail inquiries that are received after 5:00 p.m. ET on October 24, 2019 until after the funding application deadline of October 28, 2019.

F. Right of rejection: The CDFI Fund reserves the right to reject any NMTC Allocation Application in the case of a prior CDFI Fund award recipient, if such Applicant has failed to comply with the terms, conditions, and other requirements of the prior or existing assistance or award agreement(s) with the CDFI Fund. The CDFI Fund reserves the right to reject any NMTC Allocation Application in the case of a prior CDFI Fund Allocatee, if such Applicant has failed to comply with the terms, conditions, and other requirements of its prior or existing Allocation Agreement(s) with the CDFI Fund. The CDFI Fund reserves the right to reject any NMTC Allocation Application in the case of any Applicant, if an Affiliate of the Applicant has failed to meet the terms, conditions and other requirements of any prior or existing assistance agreement, award agreement or Allocation Agreement with the CDFI Fund.

The CDFI Fund reserves the right to reject or reduce the allocation award amount of any NMTC Allocation Application in the case of a prior Allocatee, if such Applicant has failed to use its prior NMTC Allocation(s) in a manner that is generally consistent with the business strategy (including, but not limited to, the proposed product offerings, QALICB type, fees and markets served) set forth in the Allocation Application(s) related to such prior Allocation(s) or such

Applicant has been found by the IRS to have engaged in a transaction or series of transactions designed to achieve a result that is inconsistent with the purposes of IRC § 45D. The CDFI Fund also reserves the right to reject or reduce the allocation award amount of any NMTC Allocation Application in the case of an Affiliate of the Applicant that is a prior Allocatee and has failed to use its prior NMTC Allocation(s) in a manner that is generally consistent with the business strategy (including, but not limited to, the proposed product offerings, QALICB type, fees and markets served) set forth in the Allocation Application(s) related to such prior NMTC Allocation(s) or has been found by the IRS to have engaged in a transaction or series of transactions designed to achieve a result that is inconsistent with the purposes of IRC § 45D.

The CDFI Fund reserves the right to reject an NMTC Allocation Application if information (including, but not limited to, administrative errors or omission of information) comes to the attention of the CDFI Fund that adversely affects an Applicant's eligibility for an award, adversely affects the CDFI Fund's evaluation or scoring of an application, adversely affects the CDFI Fund's prior determinations of CDE certification, or indicates fraud or mismanagement on the part of an Applicant, its Affiliate(s), or the Controlling Entity, if such fraud or mismanagement by the Affiliate(s) or Controlling Entity would hinder the Applicant's ability to perform under the Allocation Agreement. If the CDFI Fund determines that any portion of the application is incorrect in any material respect, the CDFI Fund reserves the right, in its sole discretion, to reject the application.

As a part of the substantive review process, the CDFI Fund may permit the Allocation Recommendation Panel member(s) to request information from Applicants for the sole purpose of obtaining, clarifying or confirming application information or omission of information. In no event shall such contact be construed to permit an Applicant to change any element of its

application. At this point in the process, an Applicant may be required to submit additional information about its application in order to assist the CDFI Fund with its final evaluation process. If the Applicant (or the Controlling Entity or any Affiliate) has previously been awarded an NMTC Allocation, the CDFI Fund may also request information on the use of those NMTC Allocations, to the extent that this information has not already been reported to the CDFI Fund. Such requests must be responded to within the time parameters set by the CDFI Fund. The selecting official(s) will make a final allocation determination based on an Applicant's file, including, without limitation, eligibility under IRC§45D, the reviewers' scores and the amount of NMTC Allocation authority available. The CDFI Fund reserves the right to reject any NMTC Allocation Application if additional information is obtained that, after further due diligence and in the discretion of the CDFI Fund, would hinder the Applicant's ability to effectively perform under the Allocation Agreement.

In the case of Applicants (or the Controlling Entity, or Affiliates) that are regulated or receive oversight by the Federal government or a State agency (or comparable entity), the CDFI Fund may request additional information from the Applicant regarding Assurances and Certifications or other information about the ability of the Applicant to effectively perform under the Allocation Agreement. The Allocation Recommendation Panel or selecting official(s) reserve(s) the right to consult with and take into consideration the views of the appropriate Federal banking and other regulatory agencies. In the case of Applicants (or Affiliates of Applicants) that are also Small Business Investment Companies, Specialized Small Business Investment Companies or New Markets Venture Capital Companies, the CDFI Fund reserves the right to consult with and take into consideration the views of the Small Business Administration. An Applicant that is or is Affiliated with an insured depository institution will not be awarded an

allocation if it has a composite rating of “5” on its most recent examination, performed in accordance with the Uniform Financial Institutions Rating System.

Furthermore, the CDFI Fund will not award an NMTC Allocation to an Applicant that is an insured depository institution or is an Affiliate of an insured depository institution, if during the time period beginning with the application deadline and ending with the execution of the CY 2019 Allocation Agreement; the Applicant received any of the following:

1. CRA  
assessment rating of below “Satisfactory” on its most recent examination,
2. A going concern opinion on its most recent audit; or
3. A Prompt Corrective Action directive from its regulator.

The CDFI Fund reserves the right to conduct additional due diligence on all Applicants, as determined reasonable and appropriate by the CDFI Fund, in its sole discretion, related to the Applicant, Affiliates, the Applicant’s Controlling Entity and the officers, directors, owners, partners and key employees of each. This includes the right to consult with the IRS if the Applicant (or the Controlling Entity, or Affiliates) has previously been awarded an NMTC Allocation.

Each Applicant will be informed of the CDFI Fund's award decision through an electronic notification whether selected for an allocation or not selected for an allocation, which may be for reasons of application incompleteness, ineligibility, or substantive issues. Eligible Applicants that are not selected for an allocation based on substantive issues will likely be given the opportunity to receive feedback on their applications. This feedback will be provided in a format and within a timeframe to be determined by the CDFI Fund, based on available resources.

The CDFI Fund further reserves the right to change its eligibility and evaluation criteria and procedures, if the CDFI Fund deems it appropriate. If said changes materially affect the CDFI Fund's award decisions, the CDFI Fund will provide information regarding the changes through the CDFI Fund's website.

There is no right to appeal the CDFI Fund's NMTC Allocation decisions. The CDFI Fund's NMTC Allocation decisions are final.

## VI. AWARD ADMINISTRATION INFORMATION

### A. Allocation Award Compliance

1. Failure to meet reporting requirements: If an Allocatee, or an Affiliate of an Allocatee, is a prior CDFI Fund award recipient or Allocatee under any CDFI Fund program and is not current on the reporting requirements set forth in the previously executed assistance, allocation, or award agreement(s) as of the date the CDFI Fund provides notification of an NMTC Allocation award or thereafter, the CDFI Fund reserves the right, in its sole discretion, to reject the application, delay entering into an Allocation Agreement, and/or impose limitations on an Allocatee's ability to issue QEIs to investors until said prior award recipient or Allocatee is current on the reporting requirements in the previously executed assistance, allocation, or award agreement(s). Please note that the automated systems the CDFI Fund uses for receipt of reports submitted electronically typically acknowledges only a report's receipt; such an acknowledgment does not warrant that the report received was complete and therefore met reporting requirements.
2. Pending determination of noncompliance or default: If an Allocatee is a prior award recipient or Allocatee under any CDFI Fund program and if: (i) it has submitted reports to the CDFI Fund that demonstrate potential noncompliance with a previous assistance or award agreement or a potential default under an Allocation Agreement; and (ii) the CDFI Fund has yet to make a final

determination as to whether the entity is noncompliant with a previous assistance or award agreement or is in default under a previous Allocation Agreement, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Allocation Agreement and/or to impose limitations on the Allocatee's ability to issue Qualified Equity Investments to investors, pending final determination of whether the entity is in noncompliance or default, and determination of remedies, if applicable, in the sole determination of the CDFI Fund. Further, if an Affiliate of an Allocatee is a prior CDFI Fund award recipient or Allocatee and if such entity: (i) has submitted reports to the CDFI Fund that demonstrate potential noncompliance under a previous assistance or award agreement or potential default under a previous Allocation Agreement; and (ii) the CDFI Fund has yet to make a final determination as to whether the entity is in noncompliance under its previous assistance or award agreement, or in default of its previous Allocation Agreement, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Allocation Agreement and/or to impose limitations on the Allocatee's ability to issue QEIs to investors, pending final determination of whether the entity is in noncompliance or default, and determination of remedies, if applicable, in the sole determination of the CDFI Fund. If the prior award recipient or Allocatee in question is unable to satisfactorily resolve the issues of noncompliance or default, in the sole determination of the CDFI Fund, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the award notification made under this NOAA.

3. Determination of noncompliance or default status: If prior to entering into an Allocation Agreement through this NOAA: (i) the CDFI Fund has made a final determination that an Allocatee that is a prior CDFI Fund award recipient or Allocatee under any CDFI Fund program is (i) noncompliant with a previously executed assistance or award agreement, or is in default of

a previously executed Allocation Agreement; (ii) the CDFI Fund has provided written notification of such determination to such organization; and (iii) the noncompliance or default occurs during the time period beginning 12 months prior to the application deadline and ending with the execution of the CY 2019 Allocation Agreement, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Allocation Agreement and/or to impose limitations on the Allocatee's ability to issue QEIs to investors, or to terminate and rescind the NMTC Allocation made under this NOAA.

Furthermore, if prior to entering into an Allocation Agreement through this NOAA: (i) the CDFI Fund has made a final determination that an Affiliate of an Allocatee that is a prior CDFI Fund award recipient or Allocatee under any CDFI Fund programs is in noncompliance of a previously executed assistance or award agreement or in default of a previously executed Allocation Agreement(s); (ii) the CDFI Fund has provided written notification of such determination to such organization; and (ii) the default occurs during the time period beginning 12 months prior to the application deadline and ending with the execution of the CY 2019 Allocation Agreement, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Allocation Agreement and/or to impose limitations on the Allocatee's ability to issue QEIs to investors, or to terminate and rescind the NMTC Allocation made under this NOAA.

B. Allocation Agreement: Each Applicant that is selected to receive a NMTC Allocation (Allocatee) (including their Subsidiary Allocatees) must enter into an Allocation Agreement with the CDFI Fund. The Allocation Agreement will set forth certain required terms and conditions of the NMTC Allocation which may include, but are not limited to, the following: (i) the amount of the awarded NMTC Allocation; (ii) the approved uses of the awarded NMTC Allocation (e.g., loans to or equity investments in Qualified Active Low-Income Businesses, loans to or equity



investments in other CDEs); (iii) the approved service area(s) in which the proceeds of QEIs may be used, including the dollar amount of QLICIs that must be invested in Non-Metropolitan counties; (iv) commitments to specific “innovative activities” discussed by the Allocatee in its Allocation Application; (v) the time period by which the Allocatee may obtain QEIs from investors; (vi) reporting requirements for the Allocatee; and (vii) a requirement to maintain certification as a CDE throughout the term of the Allocation Agreement. If an Allocatee represented in its NMTC Allocation Application that it intends to invest substantially all of the proceeds from its investors in businesses in which persons unrelated to the Allocatee hold a majority equity interest, the Allocation Agreement will contain a covenant to that effect.

In addition to entering into an Allocation Agreement, each Allocatee must furnish to the CDFI Fund an opinion from its legal counsel or a similar certification, the content of which will be further specified in the Allocation Agreement, to include, among other matters, an opinion that an Allocatee (and its Subsidiary Allocatees, if any): (i) is duly formed and in good standing in the jurisdiction in which it was formed and the jurisdiction(s) in which it operates; (ii) has the authority to enter into the Allocation Agreement and undertake the activities that are specified therein; (iii) has no pending or threatened litigation that would materially affect its ability to enter into and carry out the activities specified in the Allocation Agreement; and (iv) is not in default of its articles of incorporation, bylaws or other organizational documents, or any agreements with the Federal government.

If an Allocatee identifies Subsidiary Allocatees, the CDFI Fund reserves the right to require an Allocatee to provide supporting documentation evidencing that it Controls such entities prior to entering into an Allocation Agreement with the Allocatee and its Subsidiary Allocatees. The CDFI Fund reserves the right, in its sole discretion, to rescind its NMTC

Allocation award if the Allocatee fails to return the Allocation Agreement, signed by the authorized representative of the Allocatee, and/or provide the CDFI Fund with any other requested documentation, including an approved legal opinion, within the deadlines set by the CDFI Fund.

C. Fees: The CDFI Fund reserves the right, in accordance with applicable Federal law and, if authorized, to charge allocation reservation and/or compliance monitoring fees to all entities receiving NMTC Allocations. Prior to imposing any such fee, the CDFI Fund will publish additional information concerning the nature and amount of the fee.

D. Reporting: The CDFI Fund will collect information, on at least an annual basis from all Allocatees and/or CDEs that are recipients of QLICs, including such audited financial statements and opinions of counsel as the CDFI Fund deems necessary or desirable, in its sole discretion. The CDFI Fund will require the Allocatee to retain information as the CDFI Fund deems necessary or desirable and shall provide such information to the CDFI Fund when requested to monitor each Allocatee's compliance with the provisions of its Allocation Agreement and to assess the impact of the NMTC Program in Low-Income Communities. The CDFI Fund may also provide such information to the IRS in a manner consistent with IRC § 6103 so that the IRS may determine, among other things, whether the Allocatee has used substantially all of the proceeds of each QEI raised through its NMTC Allocation to make QLICs. The Allocation Agreement shall further describe the Allocatee's reporting requirements.

The CDFI Fund reserves the right, in its sole discretion, to modify these reporting requirements if it determines it to be appropriate and necessary; however, such reporting requirements will be modified only after due notice to Allocatees.

## VII. AGENCY CONTACTS

The CDFI Fund will provide programmatic and information technology support related to the Allocation Application Mondays through Fridays, between the hours of 9:00 a.m. and 5:00 p.m. ET through October 24, 2019. The CDFI Fund will not respond to phone calls or e-mails concerning the application that are received after 5:00 p.m. ET on October 24, 2019 until after the Allocation Application deadline of October 28, 2019. Applications and other information regarding the CDFI Fund and its programs may be obtained from the CDFI Fund's website at <https://www.cdfifund.gov>. The CDFI Fund will post on its website responses to questions of general applicability regarding the NMTC Program.

A. Information technology support: Technical support can be obtained by calling (202) 653-0422 or by submitting a Service Request in AMIS. People who have visual or mobility impairments that prevent them from accessing the Low-Income Community maps using the CDFI Fund's website should call (202) 653-0422 for assistance. These are not toll free numbers.

B. Programmatic support: If you have any questions about the programmatic requirements of this NOAA, contact the CDFI Fund's NMTC Program Manager by submitting a Service Request in AMIS; or by telephone at (202) 653-0421. These are not toll-free numbers.

C. Administrative support: If you have any questions regarding the administrative requirements of this NOAA, contact the CDFI Fund's NMTC Program Manager by submitting a Service Request in AMIS, or by telephone at (202) 653-0421. These are not toll free numbers.

D. IRS support: For questions regarding the tax aspects of the NMTC Program, contact Jian Grant and James Holmes, Office of the Chief Counsel (Passthroughs and Special Industries), IRS, by telephone at (202) 317-4137, or by facsimile at (855) 591-7867. These are not toll free numbers. Applicants wishing for a formal ruling request should see IRS Internal Revenue Bulletin 2018-1, issued January 2, 2018.

## VIII. INFORMATION SESSIONS

In connection with this NOAA, the CDFI Fund may conduct one or more information sessions that will be produced in Washington, DC and broadcast over the internet via webcasting as well as telephone conference calls. For further information on these upcoming information sessions, please visit the CDFI Fund's website at <https://www.cdfifund.gov>.

AUTHORITY: 26 U.S.C. 45D; 31 U.S.C. 321; 26 CFR 1.45D-1.

**Jodie Harris,**

*Director,*

*Community Development Financial Institutions Fund.*

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